

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
RAS Crane, LLC 10700 Abbott's Bridge Road, Suite 170 Duluth, GA 30097 Telephone Number 470-321-7112 Attorneys For Secured Creditor Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust Harold Kaplan, Esq. HK-0226	CASE NO.: 19-13315-CMG CHAPTER 13 Objection to Confirmation of Debtor's Chapter 13 Plan
In Re: Kenneth McCarthy Debtor.	

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE # 12), and states as follows:

1. Debtor, Kenneth McCarthy ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on February 18, 2019.
2. Secured Creditor holds a security interest in the Debtor's real property located at 907 Bond St, Asbury Park, NJ 07712-5903, by virtue of a Mortgage recorded on February 11, 2008 in Book OR-8703, at Page 48 of the Public Records of Monmouth County, NJ. Said Mortgage secures a Note in the amount of \$195,550.00.
3. The Debtor filed a Chapter 13 Plan on March 1, 2019.
4. Secured Creditor filed a Proof of Claim in this case on March 22, 2019, Claim No. 3-1.
5. The Plan includes payments toward the Note and Mortgage with Secured Creditor; however, the figures used by the Debtor are inaccurate and do not conform to Secured Creditor's timely-filed Proof of Claim. The correct pre-petition arrearage due Secured Creditor is \$50,064.35, whereas the Plan proposes to pay only \$42,795.22. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and

1325(a)(5) and cannot be confirmed. Secured Creditor objects to any plan which proposes to pay it anything less than \$50,064.35 as the pre-petition arrearage over the life of the plan.

6. Debtor's Plan evidences an intent to seek mortgage modification with Secured Creditor. Thus far, loan modification has not been offered or approved. Debtor is obligated to fund a Plan which is feasible to cure the arrears due to the objecting creditor within a reasonable time pursuant to 11 U.S.C § 1322(b)(5). Therefore, in the event that any loss mitigation efforts are not successful, the plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

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By: /s/Harold Kaplan
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CERTIFICATION OF SERVICE

1. I, Harold Kaplan, represent Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, in this matter.
2. On 3/29/2019, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below.
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

3/29/2019

RAS Crane, LLC
Attorney for Secured Creditor
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Duluth, GA 30097
Telephone Number 470-321-7112

By: /s/Harold Kaplan
Harold Kaplan, Esquire
NJ Bar Number HK-0226
Email: hkaplan@rasnj.com

<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Davis Law Center, LLC 3 Main Street Newark, NJ 07105	Attorney for Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Kenneth McCarthy 80 Cliffedge Way Red Bank, NJ 07701-5211	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)